

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
MAY 14 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Florida Public Service Commission's)

Petition for Additional Authority to)

Implement Number Conservation Measures)

NSD File No. L-99-33

COMMENTS OF AT&T CORP. ON
PETITION FOR WAIVER

96-98
Received
MAY 17 1999
Common Carrier Bureau
Network Service Division
Office of the Chief

Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
Room 3245H1
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4617

Douglas I. Brandon
Vice President - External Affairs
1150 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 223-9222

May 14, 1999

No. of Copies rec'd
List ABCDE

2

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION AND SUMMARY	1
I. THE FPSC FAILS TO DEMONSTRATE THAT THE COMMISSION'S WELL-ESTABLISHED AUTHORITY OVER NUMBERING ADMINISTRATION SHOULD BE ALTERED	3
II. GRANTING THE FPSC'S SPECIFIC NUMBERING PROPOSALS WOULD HAVE FAR-REACHING AND NEGATIVE EFFECTS ON COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY	6
A. State-by-State Implementation of Number Pooling and Other Conservation Measures Would Hinder Efforts to Achieve a Nationwide Solution.....	6
B. Requiring States to Decide on a Relief Plan Before Implementing Code Rationing Measures Serves the Public Interest.....	10
C. The Commission Should Reiterate the Limits Placed on State Authority To Order Code Reclamation	12
D. The Implementation of Permanent Number Portability Depends on the Existence of Uniform National Standards	13
E. State Commissions Should Have Access to Aggregate Utilization Data Obtained by the NANPA	14
F. The FCC's Decision to Continue the California Public Utilities Commission's Lottery Authority Does Not Support the FPSC's Instant Request.....	17
CONCLUSION.....	18

RECEIVED

MAY 14 1999

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Florida Public Service Commission's) NSD File No. L-99-33
Petition for Additional Authority to)
Implement Number Conservation Measures)

**COMMENTS OF AT&T CORP.
ON PETITION FOR WAIVER**

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp. ("AT&T") hereby submits its comments on the petition of the Florida Public Service Commission's ("FPSC") petition for additional authority to implement number conservation measures.^{1/} The Commission has consistently refused to grant such authority to the states, thus ensuring the continued maintenance of consistent national numbering policies essential to the development of competition and the provision of the telecommunications services consumers demand. The FPSC provides no basis for reversal of this longstanding policy.

INTRODUCTION AND SUMMARY

When it comes to numbering matters, all parties to FCC and state commission proceedings have the same ultimate goal: the long-term availability of resources sufficient to meet consumer demand for competitive and innovative telecommunications services. The only difference of opinion arises in connection with how best to achieve this objective. AT&T agrees with the FPSC that prompt action on conservation and optimization is required to reduce the

^{1/} Florida Public Service Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-33, filed April 2, 1999 ("FPSC Petition").

need for frequent and costly area code relief implementation. However, AT&T is very concerned about the potential impact of dozens of differing and inconsistent state plans on the viability of the North American Numbering Plan ("NANP"), carriers' ability to provide service to their current and prospective customers, and the development of national numbering standards.

The development of national standards for pooling is currently underway and the Commission fully comprehends the need to conclude the process expeditiously. Permitting state commissions to implement mandatory number pooling or other conservation methods such as unassigned number porting would fruitlessly divert much-needed resources away from the federal process. Nor is there any basis to turn to the states for other number administration functions, such as the establishment of code allocation standards or code reclamation. Congress placed this authority with the Commission precisely because the existence of more than fifty independent regimes for code administration would severely impede management of the nationwide numbering plan.

The FPSC's petition is substantively identical to those previously filed by the Massachusetts Department of Telecommunications and Energy ("MDTE"), the New York State Department of Public Service ("NYDPS"), and the Maine Public Utilities Commission ("MPUC"). The FPSC requests authority to implement the same types of number administration measures, and supports its request with reasoning substantially similar to that used by those petitioners. This succession of state commission petitions evinces an immediate need for the Commission to take two actions. First, the FCC should reiterate that, because an efficient nationwide numbering plan must be administered pursuant to national standards and policies, it will not entertain further substantively identical state requests for additional authority. Second,

the Commission must establish national conservation standards as expeditiously as possible to provide the necessary relief to all states, carriers, and consumers.

I. THE FPSC FAILS TO DEMONSTRATE THAT THE COMMISSION'S WELL-ESTABLISHED AUTHORITY OVER NUMBERING ADMINISTRATION SHOULD BE ALTERED

Congress has granted the Commission sole jurisdiction to administer a uniform national numbering system.^{2/} The Commission has consistently retained this plenary authority while making specific, limited delegations of authority to state commissions.^{3/} By retaining federal authority over numbering administration, Congress has recognized that an efficient and effective nationwide numbering plan must be centrally administered pursuant to national standards. The Commission has repeatedly affirmed that a system comprised of varying state regimes for number administration would result in significant societal and economic costs.^{4/} Moreover, the Commission has correctly found that permitting state commissions to proceed with certain numbering administration measures “on a piecemeal basis” could “jeopardiz[e]

^{2/} 47 U.S.C. § 251(e)(1).

^{3/} See, e.g., In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19025 ¶ 23 (1998) (“Pennsylvania Order”) (reiterating the Commission’s sole responsibility to implement national numbering policy while delegating limited authority for states to implement code rationing in certain circumstances); Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19512 ¶ 271 (1996) (“Second Report and Order”) (retaining the “authority to set policy with respect to all facets of numbering administration” while authorizing states to resolve matters involving implementation of new area codes). The Supreme Court has also recognized the FCC’s plenary authority over numbering administration. See AT&T Corp. v. Iowa Utilities Board, 119 S.Ct. 721, 729 (1999).

^{4/} See, e.g., Second Report and Order at 19533 ¶ 320 (1996); Pennsylvania Order at 19022-24 ¶ 21.

telecommunications services throughout the country.”^{5/} Indeed, numbering administration epitomizes the Supreme Court’s observation that “a federal program administered by 50 independent state agencies is surpassing strange.”^{6/}

The Commission is currently reviewing the public comments on the North American Numbering Council’s Number Resource Optimization Report (“NANC NRO”), and has indicated that it plans to initiate a rulemaking on specific number optimization proposals shortly. Prompt commencement of this proceeding will significantly mitigate many of the petitioner’s concerns. AT&T urges the Commission to act as expeditiously as possible, and stands ready to continue to assist in developing national standards for number pooling and other conservation methods. In the meantime, nothing would be gained by granting states piecemeal authority over certain numbering administration issues. Patchwork state-mandated administration efforts would fruitlessly divert resources from developing and implementing national standards for efficient number administration, and would thereby ultimately hinder, rather than promote, efforts to address telecommunication users’ numbering needs. More immediately, state-specific numbering administration may directly impede the ability of service providers to obtain the numbers necessary to provide service.^{7/} The inefficiency of redundant state pooling trials is

^{5/} Pennsylvania Order at 19022 ¶ 21; 19028 ¶ 28.

^{6/} AT&T v. Iowa Utilities Board, 119 S.Ct. at 730, n.6.

^{7/} This is precisely the situation that led to the Pennsylvania Order. There, the Pennsylvania Public Utilities Commission (“PaPUC”) implemented conservation measures in lieu of area code relief until the advent of number exhaust compelled the PaPUC to reconsider and initiate conventional relief for area codes 717 and 215/610. See Pennsylvania Order at 19017-20 ¶¶ 12-17. However, because of the PaPUC’s delay in establishing an area code relief plan, several area codes completely exhausted well before relief could be implemented. As a result, some carriers have fully depleted their inventories and cannot serve new customers, or have had to resort to extraordinary means to provide such service.

particularly pronounced given that the FCC will imminently issue a proposed rulemaking on number conservation measures.

The FPSC's instant petition requests relief that is substantively identical to that previously sought by the MDTE, NYDPS and MPUC.^{8/} Moreover, the FPSC relies on many of the same arguments invoked by those petitioners. AT&T urges the FCC to act promptly to deny the requests from each of these state commissions. In the meantime, the Commission should suspend consideration of similar, subsequently-filed petitions.^{9/} Soliciting public comment on "me-too" petitions filed by individual states requires the Commission, the states, and commenting parties to expend valuable resources addressing nearly identical arguments – arguments that were definitively resolved mere months ago in the Pennsylvania Order. Having confirmed that the issue of authority over numbering administration has been put to rest, the Commission, the states, and the industry can redirect their resources to rapidly developing the national standards necessary to optimize the nation's numbering resources.^{10/}

^{8/} Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, filed February 17, 1999 ("MDTE Petition"); New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, filed February 19, 1999 ("NYDPS Petition"); Maine Public Utilities Commission Petition for Additional Authority to Implement Number Conservation Measures, filed March 17, 1999 ("MPUC Petition"). AT&T hereby incorporates into this pleading by reference its comments and reply comments on the Massachusetts, New York and Maine Petitions.

^{9/} California is the latest state to file a petition for additional authority to implement number conservation measures. Petition of the California Public Utilities Commission and of the People of the State of California for Delegation of Authority, NSD File No. L-97-42, filed April 23, 1999.

^{10/} In doing so, the Commission can be sure that prior proceedings have afforded all interested parties an opportunity to be heard, and have provided the FCC with a substantial record on which to base its decision.

II. GRANTING THE FPSC'S SPECIFIC NUMBERING PROPOSALS WOULD HAVE FAR-REACHING AND NEGATIVE EFFECTS ON COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY

A petitioner seeking waiver of the Commission's rules must show "good cause" as to why the rule should be suspended, amended, or revoked.^{11/} This standard poses a "high hurdle" because it requires a petitioner to "plead with particularity the facts and circumstances which warrant [the waiver]."^{12/} The FPSC has not demonstrated that circumstances in its state merit a waiver from the conclusions reached in the Pennsylvania Order. To the contrary, the FPSC's petition underscores the danger inherent in short-circuiting the FCC's on-going efforts at the national level by approving numerous inconsistent state regimes.

A. State-by-State Implementation of Number Pooling and Other Conservation Measures Would Hinder Efforts to Achieve a Nationwide Solution

The FPSC recognizes that national pooling protocols are currently under consideration, but nonetheless requests authority to implement thousands block pooling before national standards are in place.^{13/} Like the FPSC, AT&T strongly supports thousands block pooling for technically capable carriers.^{14/} The FPSC, however, leaves its pooling proposal largely undefined

^{11/} 47 C.F.R. § 1.3.

^{12/} Rio Grande Family Radio Fellowship, Inc. v. FCC, 406 F.2d 664, 666 (D.C. Cir. 1968). See also Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969), cert denied, 409 U.S. 1027 (1972).

^{13/} FPSC Petition at 3.

^{14/} The Commission has correctly recognized that thousands block pooling requires the use of LNP, and only LNP-capable providers can participate. See Pennsylvania Order at 19028-29 ¶ 29. To maintain its principle of technological neutrality, the Commission should continue to ensure that non-LNP-capable providers remain exempt from pooling requirements, while ensuring that such carriers have adequate access to numbering resources. See Second Report and Order at 19587 ¶ 283.

making it impossible for the FCC to determine if the plan would be implemented in a competitively neutral manner or would otherwise comply with Commission policies.

To achieve optimum benefits, thousands block pooling must be implemented according to a uniform national set of requirements.^{15/} Because thousands block number pooling substantially alters number resource administration and significantly affects carrier networks, systems, and operations, implementing it on a state-by-state basis could place an intolerable strain on carriers' administrative resources. Carriers could be forced to create different systems in each state in which they do business, only to revise those systems yet again once national standards are issued. The Commission recently refused to grant states authority to implement number pooling "in view of the activity occurring at the federal level to develop such national standards."^{16/} The arguments presented by the FPSC do not warrant a reversal of this decision.

Not only are the parameters of the FPSC's thousands block pooling proposal largely undefined, it parenthetically states that it is considering the adoption of hundreds block pooling.^{17/} All pooling research and development has, to date, focused solely on thousands block pooling. There has been no activity at the industry level, the NANC, or the Commission on the development of hundreds block pooling. Moreover, there is nothing in the record that suggests

^{15/} North American Numbering Council, Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods, at §§ 6.2.8, 8.21.3, 11.2.5 (Oct. 20, 1998) ("NANC NRO") (recognizing the need for a uniform national architecture for individual telephone number pooling, thousands block number pooling, and unassigned number porting).

^{16/} Pennsylvania Order at 19027 ¶ 27.

^{17/} FPSC Petition at 3.

hundreds block pooling would be feasible in the near term, or that it would provide meaningfully more efficient numbering administration than would thousands block pooling.

The FPSC also requests authority to implement unassigned number porting (“UNP”).^{18/} While AT&T supports further exploration of UNP, the method remains undeveloped and not yet ready to be implemented in any meaningful way.^{19/} Moreover, once UNP is finally developed, it may not prove to be as effective as thousands block number pooling. AT&T therefore urges the Commission to proceed forthwith with the creation of nationwide standards for thousands block pooling, and to ensure that those standards can be implemented before authorizing experiments with other less developed potential number conservation methods. Once thousands block pooling is firmly established, it may be appropriate to revisit whether a state trial of UNP is warranted.

Nor is there any basis to grant the FPSC’s request to implement NXX code sharing.^{20/} In the Public Notice on the NANC NRO, the FCC explicitly declined to request comment on code sharing.^{21/} This was because, in the NRO Working Group’s view, required system upgrades would not be ready before thousands block pooling could be implemented, and because “1000s

^{18/} FPSC Petition at 3.

^{19/} NANC NRO at § 11.1.1 (stating that the NANC was only able to examine the use of UNP in jeopardy situations and that no qualitative or quantitative analysis of the costs or benefits of UNP was performed).

^{20/} FPSC Petition at 3.

^{21/} Public Notice, Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures, NSD File No. L-98-134, at 5 (rel. Nov. 6, 1998).

block pooling is a more technically efficient means of number optimization.”^{22/} There is simply no reason that the Commission, the NANC, or carriers should devote more resources to development of a measure that is certain to result in inefficiency, protracted deployment schedules, and the loss of calling features customers demand.

Finally, the FPSC fails to support its request for authority to establish code allocation standards.^{23/} The FPSC provides scant detail regarding the measures it seeks to impose, except to say that the NANPA would be required to consult with the FPSC prior to issuance of additional NXX codes.^{24/} Such a request runs counter to the overarching theme of the FPSC’s petition – that the inefficiency of the current numbering administration process renders it ineffective. Requiring the NANPA to obtain FPSC approval prior to allocating new codes would further encumber the administration of numbering resources by adding another layer of regulatory process.

The FPSC could manage its numbering resources more efficiently, and alleviate some of the concerns that prompt its petition, through rate center consolidation (“RCC”). RCC can extend the life of an existing area code, provided that a shortage situation has not already been reached, by reducing the demand for new numbers.^{25/} RCC can substantially improve utilization rates by allowing carriers to use a block of numbers over a larger area, thus reducing the need for pooling. Significantly, RCC has been well-defined and tested, and is within the FPSC’s

^{22/} NANC NRO at §§ 14.2., 16.1.

^{23/} FPSC Petition at 5.

^{24/} Id.

^{25/} NANC NRO at § 1.5.1.

jurisdiction.^{26/} AT&T cautions, however, that RCC should be implemented in a manner that minimizes negative effects on markets where competition is emerging.^{27/} The FPSC should focus its efforts on the proven benefits of RCC, rather than expending valuable resources experimenting with UNP or developing a state-specific number pooling system prior to the implementation of national standards.

B. Requiring States to Decide on a Relief Plan Before Implementing Code Rationing Measures Serves the Public Interest

The FPSC requests authority to revise rationing measures and to institute NXX lotteries prior to adoption of area code relief plans.^{28/} The FPSC also requests authority to maintain current code rationing measures until six months after the implementation of area code relief.^{29/} The FPSC fails, however, to provide any description of the lottery or other rationing measures it intends to adopt, making it impossible for the Commission to evaluate whether the programs could be implemented in a competitively neutral manner. Nor does the FPSC cite any examples of instances in which the industry failed to adopt a rationing plan on a timely basis. To the contrary, the industry has consistently agreed on rationing plans for the NPAs declared in

^{26/} See Pennsylvania Order at 19028-29 ¶ 29 (“encourag[ing]” state commissions to consider RCC).

^{27/} By enlarging local calling areas, RCC may increase the size of the non-competitive local market at the expense of the more competitive intraLATA toll market. NANC NRO at § 1.7.2.3. RCC may also negatively affect some customers by shifting toll call boundaries and changing the balance of traffic between local and toll calls. Id. at § 1.7.2.1. Further, RCC may complicate the routing of emergency calls. Id. at § 1.9.1.

^{28/} FPSC Petition at 3.

^{29/} FPSC Petition at 4.

jeopardy in the State of Florida.^{30/} The practice of substituting number rationing for area code relief was expressly forbidden in the Pennsylvania Order,^{31/} and the FPSC fails to advance any valid justification for revisiting this issue.

The FPSC claims that implementation of an area code relief plan accelerates demand for the remaining NXXs in the old area code, and that state-imposed rationing measures could constrain this “artificial” increase in demand.^{32/} The “artificial” increase in demand referred to by the FPSC is, in reality, however, real, pent-up demand driven by the inability of carriers to obtain the numbers they need to provide service. Granting the FPSC’s request to extend code rationing would simply postpone, and thereby increase, the inevitable spike in demand. The FPSC’s proposal does nothing to solve the underlying problem – the need for adequate numbering resources to serve consumers. As the Commission has recognized time and again, the best way to ensure that carriers have adequate numbering resources is to implement timely area code relief.

^{30/} On March 31, 1999, the industry agreed on final code conservation procedures for the 561 and 954 NPAs. Industry agreement was reached on April 6, 1999 on final code conservation measures for the 941 NPA, and on April 23, 1999 for the management of the remaining 305 NXXs for use in the Keys.

^{31/} See Pennsylvania Order at 19024-25 ¶ 22 (“Conservation methods are not, however, area code relief and it is important that state commissions recognize that distinction and implement area code relief when it is necessary.”); Id. at 19027-28 ¶¶ 27-28.

^{32/} FPSC Petition at 4.

C. The Commission Should Reiterate the Limits Placed on State Authority To Order Code Reclamation

The FPSC seeks authority to reclaim unused and reserved central office codes.^{33/} The Commission has never delegated code reclamation authority to state commissions and, in the Pennsylvania Order, it reaffirmed that the states do not have authority to reclaim codes.^{34/} The FPSC fails to provide any reasoned basis that would support an outcome different than that reached in the Pennsylvania Order. The FPSC does not show that the current process is deficient, nor that the states could more efficiently pursue code reclamation than could the NANPA.^{35/} Moreover, as the Pennsylvania Order made clear, grant of the petitioner's requests to take back thousands blocks before other carriers can use them (through thousands block pooling) would be both unnecessary and an inefficient use of limited resources that could otherwise be devoted to implementing national pooling standards.^{36/} Once such standards for pooling are in place, the Commission may wish to revisit the issue of number reclamation.

The FPSC also seeks authority to investigate whether codes reserved to the ILEC can be placed into carriers' pools for allocation.^{37/} Although AT&T agrees that release of reserved codes

^{33/} FPSC Petition at 4.

^{34/} Pennsylvania Order at 19025-26 ¶ 24 (limiting state authority to reclaim codes in the context of pooling trials).

^{35/} The NANPA is responsible for code reclamation, with noncompliance problems referred first to the INC. Section 8 of the most recent guidelines issued by the INC clearly and specifically addresses reclamation procedures. INC Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, § 8 ("CO Code Guidelines").

^{36/} Pennsylvania Order at 19025-26 ¶ 24 (stating that because states lack the authority to implement mandatory pooling, they do not need the authority to order the return of codes).

^{37/} FPSC Petition at 4.

would benefit competition and consumers by making more numbers available for assignment, it is unsure that the petitioners need a waiver to reclaim reserved codes. Any state commission can request that the incumbent carrier provide information regarding reserved codes, and the NANPA has the authority to then adjust the number of codes reserved. Indeed, the industry, the NANPA, and incumbent providers have examined this issue in other states, and in Florida as well, resulting in some additional codes being made available for assignment.^{38/}

D. The Implementation of Permanent Number Portability Depends on the Existence of Uniform National Standards

The FPSC requests authority to expand deployment of permanent number portability (“LNP”),^{39/} but, because it provides no supporting discussion, it is difficult to discern the scope of the authority requested. One possible interpretation is that the FPSC seeks to exercise authority over the deployment of wireline LNP by changing either the geographic scope of its roll-out, or the implementation dates. Such authority would be unwarranted. Congress unequivocally granted the FCC exclusive jurisdiction over LNP,^{40/} and the Commission has clearly stated that, from both a technical and policy standpoint, LNP must be implemented pursuant to a defined, national schedule.^{41/}

^{38/} For example, in the 215 NPA in Pennsylvania, the industry agreed to release the 800 and 888 NXXs into the available number pool.

^{39/} FPSC Petition at 4.

^{40/} See 47 U.S.C. §251(b)(2).

^{41/} In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8392-94 ¶¶ 75-81 (rel. Jul. 2, 1996) (specifically declining to direct an industry body to determine the appropriate implementation plan and establishing a deployment schedule consistent with the requirements of the 1996 Telecommunications Act).

To the extent the FPSC is proposing to expand current LNP deployment to wireless carriers, such a delegation would be completely improper. In the Pennsylvania Order, the Commission expressly refused to allow the PaPUC to accelerate LNP for wireless carriers.^{42/} Moreover, the Commission recently decided to postpone the deployment of wireless LNP, finding that wireless carriers need additional time to develop technology that will support service provider portability and to complete network upgrades that will enhance service offerings.^{43/}

The FPSC fails to provide justification for permitting individual states to alter the Commission's policies on the deployment of LNP for either wireline or wireless carriers. As the Commission's numerous orders on LNP make clear, this is an area that requires nationwide coordination and cooperation. Grant of the FPSC's request could only disrupt the on-going roll out of wireline LNP and the wireless standards development process.

E. State Commissions Should Have Access to Aggregate Utilization Data Obtained by the NANPA

The FCC has clearly held that states do not have authority to set number utilization requirements,^{44/} nor to impose rationing plans absent an area code relief plan.^{45/} Given its lack of

^{42/} Pennsylvania Order at 19035 ¶ 41.

^{43/} Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, Memorandum Opinion and Order, CC Docket No. 95-116 (rel. Feb. 9, 1999).

^{44/} In the Pennsylvania Order, the FCC gave limited authority to state commissions to impose usage thresholds only in those situations in which "it is clear that an NPA will run out of NXX codes before implementation of a relief plan" and the "industry has been unable to reach consensus on a rationing plan to extend the life of an area code until implementation of relief." Pennsylvania Order at 19025 ¶ 24.

^{45/} Id.

authority to administer numbers, it is unclear why the FPSC needs NXX code utilization data.^{46/} AT&T does, however, recognize that state commissions must address the public's growing discontent with the increased rate of area code exhaust, and that this task is made more difficult when states do not have data available to explain why this has occurred.

The desire of state commissions for data must, however, be balanced against other factors. Gathering utilization data consumes a substantial amount of time and resources. The process would be made unduly burdensome if carriers were forced to submit reports pursuant to varied formatting requirements and potentially ambiguous information requests. To avoid such confusion, the industry just completed a lengthy process of defining common number status terms and definitions that identify categories of numbers for administration and reporting purposes.^{47/} Without adherence to standard definitions, carriers would be unable to program their systems to automatically generate reports, forcing them to process information requests manually.^{48/} Failure to use terms consistently would also cause carriers to interpret information requests differently resulting in an "apples to oranges" comparison of utilization data. Moreover,

^{46/} The FPSC requests authority to use Line Utilization Survey ("LINUS")-type reporting to run quarterly NXX utilization reports. FPSC Petition at 5.

^{47/} INC CO NXX Workshop, Resolution of Issue #134, "Common Carrier Status Number Terms," closed April 26, 1999. Agreements reached will be incorporated in appropriate INC assignment guidelines and glossaries.

^{48/} This was AT&T Wireless' recent experience in Florida. The FPSC requested that carriers provide detailed utilization information, including information about utilization at the hundreds block level. Although the FPSC has no jurisdiction over wireless carriers, AT&T Wireless nonetheless responded to the request. In order to respond to the request, AT&T Wireless had to pull up and look at 19,000 100-number blocks, examine the utilization in each of those blocks, and then tally its results. This was a time-consuming and burdensome process. Moreover, it was unclear to AT&T Wireless what purpose the FPSC had for requesting this data, particularly at the hundreds block level.

AT&T has been advised by some state commissions that they may be unable to preserve the confidentiality of utilization data because of state Freedom of Information laws or a lack of necessary jurisdiction.

Providing state commissions with aggregate data obtained by the NANPA strikes the appropriate balance between these competing interests. Aggregate data will give states the information they want without unduly burdening carriers or compromising the integrity of proprietary information. AT&T has, in fact, supported at the INC and the NANC guidelines that would grant states access to such information.^{49/} In the same vein, AT&T does not oppose the concept of more frequent, and perhaps more detailed code utilization reports.^{50/} AT&T notes, however, that the industry itself is developing procedures for twice-yearly reporting.^{51/} Because the industry is already taking action on this matter, there is no need for the Commission to step in at this time.

In terms of the FPSC's request for authority to require wireless carriers to provide COCUS and other data, AT&T notes that the FCC has never considered delegating such

^{49/} At the NANC, AT&T supported giving state commissions aggregate data utilization data obtained by the NANPA via Central Office Code Utilization Survey ("COCUS") and LINUS. AT&T also supported the establishment of guidelines to specify the circumstances under which state commissions could have access to holder-specific utilization and forecast data. See Decision Items for LINUS/COCUS Enforcement, submitted by Airtouch, AT&T, and Omnipoint to the NANC (November 18, 1998).

^{50/} The FPSC requests that the FCC direct the NANPA to update the COCUS report quarterly, instead of annually. FPSC Petition at 5

^{51/} CO Code Guidelines at §§ 6.4.1 and 6.6; INC 1000s Block (NXX-X) Pooling Administration Guidelines, INC 99-0127-023, §§ 6.1 and 6.2.

authority to state commissions.^{52/} The FPSC asserts that it needs such information to investigate the viability of certain pooling scenarios. Because wireless carriers will not be able to participate in pooling in the near term,^{53/} however, it is unclear why the FPSC wants to gather this data.

AT&T, including its wireless affiliate, has always responded, to the degree possible based on the information available, to state commission requests for number utilization information, provided that such information is kept confidential. In fact, AT&T promptly complied with the FPSC's most recent request in this regard. Nevertheless, AT&T continues to believe that state commissions should not have the authority to compel the provision of such information. It is the NANPA's job as the neutral third party administrator to collect the data needed and aggregate it for review by state commissions upon request.

F. The FCC's Decision to Continue the California Public Utilities Commission's Lottery Authority Does Not Support the FPSC's Instant Request

Contrary to the petition's suggestions,^{54/} the Commission's recent decision to grant the California Public Utilities Commission ("CPUC") temporary authority over certain numbering issues does not serve as a precedent supporting the FPSC's requests for additional authority over various numbering administration issues.^{55/} The CPUC simply sought to have the FCC

^{52/} FPSC Petition at 6. Moreover, CMRS providers are expressly excluded from the definition of "telecommunications company" as a matter of Florida state law, and thus are not subject to the jurisdiction of the FPSC. Fla. Stat. Ann. § 364(12). Even if the FCC were to grant the instant requests, it does not appear that the FPSC could exercise that jurisdiction absent additional authority from the Florida state legislature.

^{53/} LNP Forbearance Order at ¶¶ 27-28.

^{54/} See FPSC Petition at 6-7.

^{55/} See Letter from Yog Varma, Deputy Chief, Common Carrier Bureau, to Helen M. Mickiewicz, California Public Utilities Commission, NSD File No. L-98-136 (Dec., 1, 1998) (granting the CPUC temporary authority to continue its existing NXX lotteries).

grandfather the statewide conservation plan it had adopted prior to the Pennsylvania Order.

Moreover, the plan it sought to have grandfathered was based almost entirely on an plan agreed upon by the industry. The industry merely asked the CPUC to resolve two issues regarding a lottery plan that had been left open by the industry's deliberations.

In stark contrast, the lottery and rationing plans currently in place in Florida have been adopted by the industry without the FPSC's intervention or resolution of any issues. Rather than seek a limited exception for a preexisting plan, the FPSC asks for broad authority to implement of variety of conservation and number administration measures in direct contravention of the Pennsylvania Order. The FCC's decision to grandfather California's practices for a limited time pending its consideration of the issues raised by that commission's actions plainly provides no basis to grant the FPSC's instant petition.

CONCLUSION

For the foregoing reasons, the Commission should reject the FPSC's petition. The Commission has repeatedly made clear that national standards should govern number administration, and the arguments advanced by the FPSC do not demonstrate that its circumstances merit a waiver, or that the Commission should revisit these well-settled principles. State commissions have a vital role to play in the development of national policies to govern number administration and carriers' use of numbers. As the Commission recently stated:

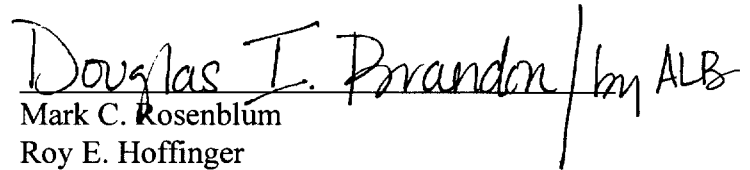
The Commission, the state commissions, and the industry should work together to bring about as quickly as possible national methods to conserve and promote efficient use of numbers that do not undermine that uniform system of numbering. Such attempts, however, cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country.^{56/}

^{56/} Pennsylvania Order at 19023-24 ¶ 21.

AT&T urges the Commission to establish national conservation standards as expeditiously as possible to provide necessary relief to all states, carriers, and consumers on an equitable basis.

Respectfully submitted,

AT&T CORP.


Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
295 North Maple Avenue, Room 3245H1
Basking Ridge, NJ 07920
(908) 221-4617

Douglas I. Brandon
Vice President - External Affairs
1150 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036
(202) 223-9222

May 14, 1999

DCDOCS: 149582.1 (37f2011.doc)

CERTIFICATE OF SERVICE

I, Teresa S. Kadlub, hereby certify that on this 14th day of May, 1999, I caused copies of the foregoing "Comments of AT&T Corp. on Petition for Waiver" to be sent to the following by hand delivery* or by first class mail:

Jerry Vaughan*
Deputy Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-C207
Washington, D.C. 20554

John Cimko*
Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., 3-C124
Washington, D.C. 20554

David Furth*
Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 4-B522
Washington, D.C. 20554

Yog Varma*
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., 5th Floor
Washington, D.C. 20554

Nancy Boocker*
Deputy Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-C133
Washington, D.C. 20554

Jeanine Poltronieri*
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-C207
Washington, D.C. 20554

Patrick Forster*
Network Services Division
Common Carrier Bureau
445 12th Street, S.W., 6th Floor
Washington, D.C. 20554

Gayle Radley Teicher*
Network Services Division
Common Carrier Bureau
445 12th Street, S.W., 6th Floor
Washington, D.C. 20554

Charlene Lagerwerff*
Chief Engineer
Wireless Telecommunications Bureau
445 12th Street, S.W., 4-A124
Washington, D.C. 20554

Janice Jamison*
Legal Advisor
Commercial Wireless Division
Wireless Telecommunications Bureau
445 12th Street, S.W., Room 5-A133
Washington, D.C. 20554

David Pine*
Wireless Telecommunications Bureau
445 12th Street, S.W., Room 3-C207
Washington, D.C. 20554

Josh Roland*
Legal Advisor
Wireless Telecommunications Bureau
445 12th Street, S.W., Room 3-C207
Washington, D.C. 20554

Dan Connors*
Legal Advisor
Office of Commissioner Susan P. Ness
Federal Communications Commission
445 12th Street, S.W., Room 8-B115
Washington, D.C. 20554

Peter Tenhula*
Legal Advisor
Office of Commissioner Michael Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Thomas Power*
Legal Advisor
Office of Commissioner William E. Kennard
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Kevin Martin*
Legal Advisor
Office of Commissioner Harold Furchgott-Roth
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Lawrence Strickling*
Common Carrier Bureau
445 12th Street, S.W., 5th Floor
Washington, D.C. 20554

Ari Fitzgerald*
Legal Advisor
Office of Commissioner William E. Kennard
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

Karen Gulick*
Legal Advisor
Office of Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Paul Misener*
Legal Advisor
Office of Commissioner Harold Furchgott-Roth
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Linda Kinney*
Legal Advisor
Office of Commissioner Susan P. Ness
Federal Communications Commission
445 12th Street, S.W., Room 8-B115
Washington, D.C. 20554

Kyle Dixon*
Legal Advisor
Office of Commissioner Michael Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

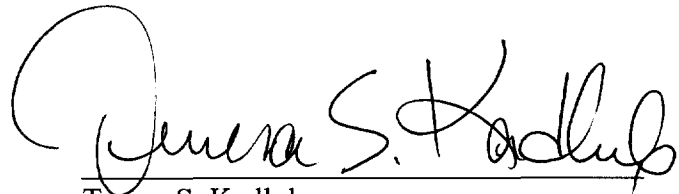
Paul Gallant*
Legal Advisor
Office of Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Joe Garcia, Chairman
Florida Public Service Commission
Capital Circle Office Center
2540 Shunard Oak Boulevard
Tallahassee, Florida 32399-0850

ITS*
1231 20th Street, N.W.
Washington, D.C. 20036

Jeannie Grimes*
Network Services Division
Common Carrier Bureau
Federal Communications Bureau
445 12th Street, S.W., 6th Floor
Washington, D.C. 20554

Al McCloud*
Network Services Division
Common Carrier Bureau
445 12th Street, S.W., 6th Floor
Washington, D.C. 20554



Teresa S. Kadlub

DCDOCS: 147388.1 (35q401!.doc)